UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.109/PV.1394
13 September 1991

ENGLISH

SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

VERBATIM RECORD OF THE 1394th MEETING

Held at Headquarters, New York,
on Wednesday, 14 August 1991, at 3 p.m.

Chairman: Mr. ALARCON de QUESADA (Cuba)
(Vice-Chairman)

- Question of the Falkland Islands (Malvinas) (continued)
- Special Committee decision of 15 August 1990 concerning Puerto Rico (continued)
- Organization of work

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In the absence of the Chairman, Mr. Alarcon de Quesada (Cuba), Vice-Chairman, took the Chair.

The meeting was called to order at 3.50 p.m.

QUESTION OF THE FALKLAND ISLANDS (MALVINAS) (A/AC.109/1084; A/AC.109/L.1767) (continued)

The CHAIRMAN (interpretation from Spanish): The Committee has before it a draft resolution on this item (A/AC.109/L.1767), to which attention was drawn at the 1387th meeting, on 9 August 1991. I call on the Permanent Representative of Venezuela to introduce the draft resolution.

Mr. ARRIA (Venezuela) (interpretation from Spanish): In introducing this draft resolution, I think it appropriate to recall the ties of friendship and cooperation that have united Venezuela and the United Kingdom since our independence and that have proved useful in overcoming various situations. I do not seek to downplay the meaning of that fact, let alone to conceal it, but I can affirm in all sincerity that difficult moments are not mainly what come to mind when Venezuelans think of their relations with the United Kingdom. Rather, we think of the valuable role played by the United Kingdom in our independence struggles, about which the Liberator, Simón Bolivar, left us numerous testimonies of gratitude.

I think it is appropriate to refer to this background in order to vouch for the sincerity of my country's position on a question which essentially involves the solidarity of the peoples of Latin America, where developments affecting one country are of concern to all.

The resolution of the Organization of American States of July 1991, unanimously adopted by the States members of that Organization - Caribbean, Latin American and North American - requests that negotiations be speedily

(Mr. Arria, Venezuela)

entered into in order to achieve a peaceful solution to this sovereignty dispute and clearly demonstrates a continental concern that should be met with a constructive response.

The new world context obliges States to resolve international disputes in the spirit of dialogue and cooperation, as reflected in the draft resolution now before the Committee - indeed the same spirit that guides the United Nations and particularly the Security Council.

The draft resolution Venezuela is introducing in the Special Committee is also sponsored by Cuba and Chile. It follows the same guidelines of the resolution adopted last year by a wide margin. The responsibility the sponsors are assuming is part of the unswerving Latin American commitment on questions of decolonization, particularly with regard to the definitive solution of the case of the Malvinas Islands.

The fourth and fifth preambular paragraphs of the draft resolution we are submitting for consideration express our concern that this prolonged dispute has not yet been settled, and also the interest of the international community in the resumption by the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland of negotiations on the question of the Malvinas Islands.

Consistent with these fundamental concerns, the operative part reiterates that the way to put an end to the special and particular colonial situation of the Malvinas Islands is the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom. It also notes with satisfaction that the Government of Argentina, with a keen sense of international responsibility, has reiterated, through its Minister for Foreign Affairs at the forty-fifth session of the General Assembly, its

(Mr. Arria, Venezuela)

will to comply fully with the General Assembly resolution referring to the question of the Malvinas Islands.

Moreover, it reiterates the support for the mission of good offices of the Secretary-General in complying with the request made by the General Assembly in its resolutions on this item.

The draft resolution we are presenting is, in our view, in keeping with the best interests of the parties, as it promotes effective dialogue for achieving a negotiated solution that would put an end to this prolonged dispute. The sponsoring countries have reflected this spirit in the draft resolution which, we hope, will be supported by all the members of the Committee.

The CHAIRMAN (interpretation from Spanish): I now call on the representative of Argentina.

Mr. CHIARADIA (Argentina) (interpretation from Spanish): Allow me to begin, Sir, by saying how pleased we are to see you presiding over the discussions of this Committee. There are few countries that have credentials as good as your own country's when it comes to a commitment to the process of decolonization. We who know you well and are familiar with your diplomatic skill and wisdom are confident of the successful outcome of the Committee's work. I should also like to congratulate the other officers of the Committee and to extend greetings and thanks to the Secretariat officials and staff.

In addition, we should like to pay a tribute to the Special Committee for its vital contribution to the process of decolonization since 1961 and for its determination and repeated efforts in the application of the purposes and principles of the United Nations. To this end, we once again reaffirm our delegation's support for and encouragement of the Committee's work.

(Mr. Chiaradia, Argentina)

My delegation should also like to thank you, Sir, and the other members of the Committee for allowing us to take part in this discussion. The question of the Malvinas Islands has a direct bearing on vital, permanent interests of my country. Consequently, the Committee's discussions and decisions are of great importance to Argentines.

While the Committee is well aware of the details and background of the question of the Malvinas Islands - the item having been continuously inscribed on its agenda since 1964 - I should none the less like to give a brief summary of the historical framework of the question.

The Malvinas Islands were sighted for the first time in 1520 by Esteban Gomez, a Spanish navigator on Magellan's expedition, 72 years before it was sighted by a British navigator, John Davis. Its first settlers, who were Frenchmen from St. Malo, settled in east Malvina in 1764. Spain lodged a formal protest with the Government of France over this settlement, securing recognition of its rights of dominion and the consequent withdrawal of the settlers. Similarly, in 1766, when England for the first time, and clandestinely, occupied an islet of the archipelago, that occupation was challenged by Spain, and, as a result, was abandoned in 1774.

From 1766 to 1810 - the year in which Argentina broke its ties with Madrid - the islands were actually in the possession of Spain, and were uninterruptedly administered by 30 Spanish Governors reporting to the resident authority in Buenos Aires. Argentina, which became independent in 1816, inherited territorial jurisdiction over the former Spanish viceroyship of Río de la Plata, which included the Malvinas Islands. It should be recalled that the newly independent States of Latin America established the boundaries of their territories on the basis of the former colonial administrative

(Mr. Chiaradia, Argentina)

divisions and pronounced themselves to be the sole, exclusive heirs to all titles and sovereign rights of the former colonial Power in those territories. The international community at the time recognized this delimitation, including England, which in 1823, when recognizing Argentine independence, did not formulate any reservation at all regarding its alleged right to the Malvinas Islands or other adjacent Territories.

(Mr. Chiaradia, Argentina)

Once the process of Argentine independence was consolidated - a lengthy, painful and arduous process - and as soon as it became possible, the Government of Argentina carried out acts of possession, occupation and administration inherent in its rights of sovereignty over the Malvinas Islands. Thus, in 1820 it formally took possession of the islands. In 1823 it appointed a Governor, while granting land and fishing and breeding concessions, none of which was challenged by Great Britain. Neither did it challenge that status in 1823, as we have said, when it recognized our independence, and again in 1825, when a treaty of friendship, trade and navigation was concluded between the two countries.

In other words, for more than half a century England did not formulate any reservation or lodge any protest over the Spanish, and later, the Argentine, occupation of the islands. However, the fact of not having made a claim in this respect - which can be explained by the lack of legal title - did not diminish its interest in the archipelago. The events of 1833 were part of England's expansionist ambitions in the South Atlantic, promoted by the British admiralty, which wanted to have a naval station on the strategic route around Cape Horn to Australia and the South Pacific. In this connection, English troops landed and attacked, for purposes of conquest, the city of Buenos Aires in 1806 and 1807. They were repelled on both occasions by the inhabitants of Buenos Aires. English troops occupied the Cape of Good Hope in 1806, Saint Helena in 1815 and Tristan da Cunha in 1816.

These developments reflected England's colonial, expansionist policy at that time, which aimed to annex strategic points for communication and trade - as occurred in Singapore in 1819 and Malacca in 1824. It was this policy and the lack of any right underlying any possible claim it might have that led

(Mr. Chiaradia, Argentina)

it to send British armed forces on 3 January 1833 to invade and occupy the Malvinas Islands, expelling the Argentine authorities and settlers there.

The Argentine reaction was swift. On 15 January 1833, the Argentine Government lodged a formal claim with the English chargé d'affaires in Buenos Aires, reiterating it shortly thereafter through its representative in London. From that time until now, the Argentine Republic has continued to protest at the act of force and illegal occupation of the Malvinas Islands and to reaffirm its rights over them.

This historical background means that the question of the Malvinas Islands is a special colonial case of a distinct nature, quite unlike the situation of other Non-Self-Governing Territories. Numerous decisions of this Committee and of the General Assembly reflect this fact. Among them, resolution 2065 (XX), adopted by a large majority of the General Assembly, provides that the question of the Malvinas Islands comprises the dispute between the Argentine Republic and the United Kingdom concerning sovereignty over the islands, and that it should be resolved through negotiations taking into account the provisions and objectives of the Charter and of resolution 1514 (XV) and the interests of the population of the Islands.

This makes the following quite clear, as regards the Malvinas Islands; first, that there is a sovereignty dispute over the Territory; secondly, that there are only two parties to that dispute - the Governments of Argentina and the United Kingdom; and, thirdly, that the solution to the dispute must be arrived at through negotiations between both Governments as the only way of putting an end to the colonial situation, excluding in this case the applicability of the right to self-determination.

(Mr. Chiaradia, Argentina)

Such non-applicability - on which the General Assembly stated its views in 1985 when it rejected a British amendment that would have included the principle of the right to self-determination in the draft resolution on the question of the Malvinas - is perfectly clear, because that principle is valid for peoples subjugated by a colonial Power, but not in the case of individuals transported to a country by that same colonial Power after that Power had usurped part of the territory of an independent State. In this regard, members should note that, owing to controls that have existed since 1833 over entry into and settlement in the Islands, Argentines were prevented from settling freely or owning land in the Malvinas Islands. The colonial Power thus set up in the Islands a population whose characteristics were predetermined, whose individuals were British subjects entitled to establish themselves in the United Kingdom. To grant those British subjects the right to self-determination would mean agreeing that they should be allowed to act as arbiters over a territorial dispute to which their country is a party. There is no doubt that this is not at all the interpretation given by the United Nations of the right to self-determination.

However, the fact that their competence in this sphere is not recognized does not mean that their interests should be overlooked - far from it. The parties to the dispute know full well the concern of the Government and of the people of Argentina over the need to ensure that they should enjoy all the necessary safeguards with regard to respect for such interests - not to mention, of course, the benefits and advantages that would naturally arise from the possibility of contact with the continental mainland, which would take the form of various options, inter alia, in culture, education, trade,

(Mr. Chiaradia, Argentina)

sport and tourism, thereby improving the well-being of this population, which is in such a peculiar situation.

The United Nations quite rightly views the question of the Malvinas Islands in operative paragraph 6 of resolution 1514 (XV) as follows:

> "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

At this point, I wish to reiterate the firm determination of my country to recover the exercise of its sovereign rights over the Malvinas Islands, the South Georgia Islands and the South Sandwich Islands and the adjacent maritime areas, and its commitment to achieving this objective through dialogue and negotiation with the United Kingdom, with the firm backing of the international community.

The restoration of diplomatic relations with the United Kingdom of Great Britain and Northern Ireland, which was formalized in February 1990, has made it possible for both countries to reach an understanding and common ground on matters of mutual interest. In this process of normalization of bilateral relations, agreements have been reached on political, economic, cultural and scientific matters, all of which is the result of President Menem's decision to agree to a temporary formula safeguarding our sovereign rights, while at the same time permitting closer relations that promote the necessary atmosphere for substantive negotiations.

(Mr. Chiaradia, Argentina)

Many steps have been taken in this direction since the last session of the Committee. I shall just refer to the following. The Argentine-British Working Group on South Atlantic Questions, established under the joint Argentine-British statement in Madrid on 15 February 1990, devoted its first two meetings held in Rio de Janeiro and Madrid in September and November of that year, to fisheries questions. Its mandate involved the bilateral exploration of the possibilities for cooperation and conservation with regard to the most significant deep-sea fishing grounds of the south-west Atlantic south of the 45th parallel, including those of the waters adjacent to the Malvinas Islands.

As a result of those meetings, in November last year both Governments issued a joint statement on the conservation of fishing resources. By means of that statement, and in order to contribute to the conservation of fishing resources, it was agreed that a South Atlantic Fisheries Commission should be established and the decision was taken on the temporary total prohibition of commercial fishing in a specified maritime area.

Included as part of the functions of the Commission - which in keeping with its mandate is to meet at least twice a year - is the submission to both Governments of recommendations elaborated on the basis of information provided by them for the conservation of the most significant deeo-sea species and also of proposals for joint scientific research and monitoring the application of the previously mentioned prohibition.

The Commission's first meeting was held in Buenos Aires in May. Agreement was reached on a series of recommendations which were submitted to the two Governments with regard to the collection of information on fisheries

(Mr. Chiaradia, Argentina)

and the holding of joint scientific meetings. The next meeting of the Commission will be held in London in November.

This year, the Argentine-British Working Group on South Atlantic Questions met in Montevideo, Uruguay, and London in May and June, respectively, to consider questions relating to the exchange of information system and reciprocal consultations on the movement of units of the armed forces of both countries in the South Atlantic, as well as on questions of safety of maritime navigation and aviation in the area of the Malvinas Islands, including procedures for search and rescue in cases of emergency. The result was the elaboration of a set of proposals which are now being considered by both Governments.

This brief outline gives an idea of the possibilities for common ground that open up when there is a will for cooperation and understanding. The progress achieved in various fields show that there is no subject which cannot be tackled and resolved through frank negotiations. This derives not only from our bilateral experience in this case but from the world situation, which shows how true this is with each passing day.

Long-standing regional conflicts much more complex than the question of the Malvinas Islands - such as those of the Middle East, Cyprus and Cambodia - are now being dealt with through negotiations. When the parties to those conflicts come together in their quest for solutions, prompted as they are by the new international climate, they tell us that there are no taboo subjects and that all questions can be tackled and discussed when there is a true willingness to achieve peace.

However, notwithstanding the resumption of Argentine-British relations and the gradual restoration of the substantial links which traditionally existed between our countries at various levels, very much to the regret of my

(Mr. Chiaradia, Argentina)

country it has not been possible to make a start on the negotiations on the sovereignty dispute requested by the majority of the international community. Just as the colonial system is out of place in the political structures of our day, unwillingness to come to the negotiating table and discuss a specific issue runs counter to the new trends towards international détente, especially when these trends are supported by a permanent member of the Security Council.

We are convinced that such reasons, as well as the new conditions now existing at the international level, including the disappearance of strategic considerations having to do with the East-West conflict, should lead to the resumption of negotiations for a just, peaceful and lasting solution of the sovereignty dispute, in which the interests of the inhabitants of the Islands are duly taken into account, thus putting an end to the anachronistic colonial situation which undermines my country's territorial integrity. That is also how the matter is seen by the Organization of American States which, meeting in June in Santiago de Chile, adopted a resolution, with the consensus of all its members - not just the Latin American members, but also those of North America and the Caribbean - reiterating its request to the Governments of Argentina and the United Kingdom to resume negotiations in order to find a peaceful solution to the sovereignty dispute as soon as possible.

Of course, it should be clear that until this goal is achieved, it is essential for the parties to the dispute to refrain from taking any unilateral measures in all fields, particularly with regard to natural resources, so as to avoid undermining prospects for a just and lasting solution to the sovereignty dispute.

(Mr. Chiaradia, Argentina)

Once again, the Latin American members of the Committee have submitted a draft resolution on this question. The representative of Venezuela has explained in detail the substance of the draft and the constructive thinking which motivated it. In addition to our fraternal gratitude for this unswerving support, I wish to emphasize that the co-sponsorship of Cuba, Chile and Venezuela once again underlines the regional dimension of the problem and the firm support of Latin America for Argentine rights and the common interests of our continent in the resumption of substantive negotiations between Buenos Aires and London.

By supporting the draft resolution, the Special Committee will be making a significant contribution to the peaceful negotiated solution of the bilateral dispute over sovereignty of the Malvinas Islands and related problems. It is in this spirit that my delegation will be deeply grateful for the support of the members of the Committee for draft resolution A/AC.109/L.1767.

The CHAIRMAN (interpretation from Spanish): I thank the representative of Argentina for his kind words addressed to me and to my country.

As there are no further speakers on this item, the Committee will proceed to take action on draft resolution A/AC.109/L.1767.

Since no member wishes to speak in explanation of vote before the vot , I shall now put the draft resolution to the vote.

Draft resolution A/AC.109/L.1767 was adopted by 21 votes to none, with 3 abstentions.

The CHAIRMAN (interpretation from Spanish): I shall now call on those representatives who wish to explain their vote after the vote.

Mr. LOHIA (Papua New Guinea): My delegation supported draft resolution A/AC.109/L.1767 because we firmly stand by the United Nations Charter as it relates to decolonization, as well as by General Assembly resolutions 1514 (XV) and 1541 (XV) on decolonization. We welcome the dialogue between the parties involved, particularly the Governments of Great Britain and Argentina, and we would like to encourage that dialogue so that it may reach a fruitful conclusion. It is entirely up to those parties to determine what matters are to be resolved in the dialogue. The Committee should assist in whatever way possible in order that this matter may finally be peacefully resolved.

The CHAIRMAN (interpretation from Spanish): The Committee has thus concluded its consideration of this item.

SPECIAL COMMITTEE DECISION OF 15 AUGUST 1990 CONCERNING PUERTO RICO (A/AC.109/L.1768 and L.1769/Rev.1) (continued)

The CHAIRMAN (interpretation from Spanish): The Committee has before it draft resolution A/AC.109/L.1769/Rev.1, introduced on 12 August by the representative of Venezuela. I have been asked to postpone consideration of this draft resolution until our next meeting, which will be held tomorrow morning. If I hear no objection, I shall take it that the Committee agrees to postpone consideration of this item until our next meeting.

It was so decided.

ORGANIZATION OF WORK

The CHAIRMAN (interpretation from Spanish): As stated this morning, it is expected that we shall complete our work tomorrow, Thursday, 15 August. However, there are still some decisions and two draft resolutions on which the Committee must take action. In this connection, I wish to appeal to members to become actively involved in the open-ended Drafting Group, and I hope that the consultations will be intensified so that the conclusions of the Group can be put before the Committee as soon as possible, thus making it possible for the Committee to conclude its work. In addition, may I remind members that we may have to waive the 24-hour rule if the Committee is to conclude its work tomorrow, since, as we know, the texts have not yet been finalized. I hope that I can have the cooperation of members should it prove necessary to follow that course.

Mr. LEHNE (Norway): The Chairman mentioned that there are still two outstanding draft resolutions. I have not seen any draft resolutions and I wonder whether the Chairman could clarify the two draft resolutions to which he has referred.

The CHAIRMAN (interpretation from Spanish): The draft resolutions are still being drafted and have not yet been completed. That is why neither of us has seen them. We are referring to the discussions that we have been carrying out on three items in respect of which it is expected that draft resolutions will be submitted on which the Committee will take the appropriate decisions. I refer to those draft resolutions that are still being drawn up.

Before adjourning this meeting, may I also remind members that there will be a meeting of this Committee's Working Group tomorrow morning following our formal meeting. As members know, that Working Group comprises the members of the Expanded Bureau and the representatives of the Congo, Fiji and the Islamic Republic of Iran. An aide-mémoire relating to pending items o be discussed by the Working Group was circulated to its members this morning and their comments are expected for tomorrow morning.

The meeting rose at 4.30 p.m.